

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

BRANDON MAGEE,

Plaintiff,

v.

SGT. DENNIS TURNER, and
SGT. WILLITON KEGLER,

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:

CASE NO.: 1:13-CV-134 (WLS)

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Thomas Q. Langstaff in this deliberate indifference case brought pursuant to 42 U.S.C. § 1983. (Doc. 19.) In the Recommendation, Judge Langstaff recommends that the Court grant Defendants’ Motion to Dismiss (Doc. 13) due to Plaintiff’s failure to exhaust administrative remedies. (Doc. 19 at 4-5.) Plaintiff did not respond to Defendants’ Motion to dismiss and has not filed an objection. (*See generally* Docket.) The time to do so has elapsed.

In his Complaint, Defendant states that he did not “appeal any denial of [his] grievance” because there “wasn’t any response given to ‘appeal.’ ” (Doc. 1 at 4.) An affidavit of Christine Cross, Deputy Warden of Care and Treatment at Calhoun State Prison, states that Plaintiff “signed an acknowledgement of receipt of the response denying his grievance” but did not file an appeal. (Doc. 13-2.) Plaintiff did not respond to Defendants’ Motion to Dismiss or attempt to refute Defendants’ evidence regarding his failure to exhaust administrative remedies. (*See generally* Docket.) For those reasons, the Court agrees with Judge Langstaff’s recommendation to dismiss Plaintiff’s complaint for failure to exhaust administrative remedies.

Upon full review and consideration of the record, the Court finds that Judge Langstaff's Recommendation (Doc. 19) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the reasons stated and conclusions reached herein. Thus, Defendants' Motion to Dismiss (Doc. 13) is **GRANTED**. Plaintiff's Complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED, this 16th day of May 2014.

/s/ W. Louis Sands

W. LOUIS SANDS, JUDGE
UNITED STATES DISTRICT COURT